

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1551 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KHODABHAI G PATEL

Appearance:

MR YOGESH S LAKHANI for Petitioner
(MR HK RATHOD) for Respondent No. 1

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 14/03/2000

ORAL JUDGEMENT

#. Mr.Yogesh Lakhani, learned advocate for the
petitioner and Mr.P.Upadhyay for Mr.M.H.Rathod, learned
advocate appearing for the respondent.

#. Present application is filed against award of the

Labour Court in Ref. No.(LCK)102/90 dtd.30.6.94 Labour Court , Kalol, whereby the respondent workman was awarded reinstatement with 50% of back wages. Looking to the facts and circumstances of the case and looking to the nature of the irregularity found to have indulged, the award of Labour Court cannot be sustained as it is. As this court while admitting the petition stayed the award of Labour Court only subject to back wages. This Court while issuing rule on 21.11.1999 passed an order as under :-

"Rule. In the meantime the operation of the impugned Award passed by the Labour Court, Kalol on 30.6.94 shall remain stayed subject to the provisions of S.17B of the Industrial Dispute Act, 1947."

#. Thereafter Civil Application No.3083/96 came to be filed and there an order came to be passed on 20.4.1996, which is as under :-

"Coram : M.R.Callan, J (20.4.96)

Mr.Rathod for the Applicant. No one appears for the opponent.

Mr.Rathod submits that on 21.11.1995 when the interim order was passed by this Court, the Court was not informed that the applicant was already in service since 22.1.1995. In this view of the matter the condition imposed in the order dated 21.11.1995 that the main award shall remain stayed subject to the provision of Section 17-B was redundant. The order dated 21.11.1995 is therefore modified to the extent that only the payment of back wages shall remain stayed and the applicant shall continue in service as has been continuing either to before 22.1.1995. The applicant's salary shall be fixed and he shall be paid salary for the period from the date he is working dated 22.1.1998 as if his services had never been terminated. This Civil Application is disposed of accordingly."

#. In light of the aforesaid facts, the position is that the workman who was reinstated in the service on 22.1.1995 has been continued in service by allowing him to join service and therefore there is no question of sending him home now. However, to see that the respondent workman does not go unpunished the order of Labour Court is modified to the extent, that the salary which is awarded- 50% back wages is quashed and set aside and the award of the Labour Court ordering reinstatement is confirmed.

#. In view of the aforesaid discussion the petition stands allowed to the aforesaid extent. The award of the

Labour Court stands confirmed to the extent it granted reinstatement and it stands quashed to the extent at awarded - 50% back wages to the workman. Rule made absolute to the aforesaid extent with no order as to costs.

kks